

# SENATE BILL 212

K1

(1lr1349)

## ENROLLED BILL

— Finance/Economic Matters —

Introduced by **Senators Klausmeier, Edwards, ~~and Kittleman~~ Kittleman, Middleton, Garagiola, Glassman, Kelley, Mathias, Muse, and Pugh**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

#### 2 **Workers' Compensation – Death Benefits – Dependency**

3 FOR the purpose of providing that certain death benefit provisions of the workers'  
4 compensation law apply only to certain covered employees of a municipal  
5 corporation or a county and their dependents; altering the authority of the  
6 Workers' Compensation Commission to make certain determinations of  
7 dependency; altering a provision of law that specifies that certain surviving  
8 spouses and individuals are not entitled to certain death benefits; altering the  
9 provisions relating to the calculation of death benefits for certain individuals  
10 who are wholly or partly dependent; requiring an employer or its insurer to pay  
11 certain death benefits to certain dependents for a certain period of time;  
12 specifying the calculation of certain death benefits; specifying the minimum  
13 amount of certain death benefits; specifying the minimum amount of time for  
14 the payment of certain death benefits; providing for an exception to the time

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#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics* indicate opposite chamber/conference committee amendments.



1 limitation for certain dependents who are incapable of self-support under  
 2 certain circumstances; providing for the termination of certain death benefits  
 3 under certain circumstances; providing for an exception to the termination of  
 4 certain death benefits for certain children under certain circumstances;  
 5 providing for the amount of death benefits to certain dependents who are  
 6 neither a dependent spouse nor a dependent child; providing for an annual  
 7 adjustment in a certain manner of a certain death benefit; specifying that the  
 8 Commission has continuing jurisdiction under certain circumstances;  
 9 authorizing a municipal corporation or county to make a certain election;  
 10 increasing the amount of certain funeral expenses that the employer or its  
 11 insurer is required to pay; providing for the application of this Act; making  
 12 stylistic changes; and generally relating to workers' compensation death  
 13 benefits for dependents of covered employees.

14 BY repealing and reenacting, without amendments,  
 15 Article – Labor and Employment  
 16 Section 9–678  
 17 Annotated Code of Maryland  
 18 (2008 Replacement Volume and 2010 Supplement)

19 BY repealing and reenacting, with amendments,  
 20 Article – Labor and Employment  
 21 Section 9–679, ~~9–680, 9–681, 9–682~~, through 9–683 and 9–689  
 22 Annotated Code of Maryland  
 23 (2008 Replacement Volume and 2010 Supplement)

24 ~~BY repealing~~  
 25 ~~Article – Labor and Employment~~  
 26 ~~Section 9–682~~  
 27 ~~Annotated Code of Maryland~~  
 28 ~~(2008 Replacement Volume and 2010 Supplement)~~

29 BY adding to  
 30 Article – Labor and Employment  
 31 Section ~~9–682~~ 9–683.1, 9–683.2, 9–683.3, 9–683.4, 9–683.5, and 9–683.6  
 32 Annotated Code of Maryland  
 33 (2008 Replacement Volume and 2010 Supplement)

34 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 35 MARYLAND, That the Laws of Maryland read as follows:

36 **Article – Labor and Employment**

37 9–678.

38 A dependent of a covered employee who is entitled to compensation for the  
 39 death of the covered employee resulting from an accidental personal injury or

1 occupational disease shall be paid compensation in accordance with this Part XII of  
2 this subtitle.

3 9-679.

4 **(A) THIS SECTION APPLIES ONLY TO A COVERED EMPLOYEE OF A**  
5 **MUNICIPAL CORPORATION OR A COUNTY WHO IS SUBJECT TO § 9-503 OF THIS**  
6 **TITLE AND THE DEPENDENTS OF THOSE COVERED EMPLOYEES, UNLESS THE**  
7 **MUNICIPAL CORPORATION OR COUNTY HAS MADE AN ELECTION UNDER §**  
8 **9-683.6 OF THIS SUBTITLE.**

9 **(B)** Except as otherwise provided in this subtitle, the Commission shall  
10 determine all questions of ~~partial or total~~ dependency in accordance with the facts of  
11 each case that existed:

12 (1) at the time of the occurrence of the accidental personal injury that  
13 caused the death of the covered employee; or

14 (2) on the date of disablement from the occupational disease that  
15 caused the death of the covered employee.

16 ~~**(B) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, THE**~~  
17 ~~**COMMISSION MAY DETERMINE THE QUESTION OF DEPENDENCY OF A CHILD OF**~~  
18 ~~**A COVERED EMPLOYEE BORN AFTER:**~~

19 ~~**(1) THE TIME OF THE OCCURRENCE OF THE ACCIDENTAL**~~  
20 ~~**PERSONAL INJURY THAT CAUSED THE DEATH OF THE COVERED EMPLOYEE;**~~

21 ~~**(2) THE DATE OF DISABLEMENT FROM THE OCCUPATIONAL**~~  
22 ~~**DISEASE THAT CAUSED THE DEATH OF THE COVERED EMPLOYEE; OR**~~

23 ~~**(3) THE DEATH OF THE COVERED EMPLOYEE RESULTING FROM**~~  
24 ~~**THE ACCIDENTAL PERSONAL INJURY OR OCCUPATIONAL DISEASE.**~~

25 9-680.

26 ~~**{a}**~~ **THIS SECTION APPLIES ONLY TO A COVERED EMPLOYEE OF A**  
27 **MUNICIPAL CORPORATION OR A COUNTY WHO IS SUBJECT TO § 9-503 OF THIS**  
28 **TITLE AND THE DEPENDENTS OF THOSE COVERED EMPLOYEES, UNLESS THE**  
29 **MUNICIPAL CORPORATION OR COUNTY HAS MADE AN ELECTION UNDER §**  
30 **9-683.6 OF THIS SUBTITLE.**

31 **(B)** The surviving spouse of a ~~DECEASED~~ covered employee whose death was  
32 caused by an accidental personal injury or an occupational disease is not entitled to  
33 ~~DEATH~~ benefits under this title if:

1 (1) the surviving spouse deserts the covered employee for more than 1  
 2 year before the time of the occurrence of the accidental personal injury or the date of  
 3 disablement from the occupational disease;

4 (2) the surviving spouse deserts the covered employee at any time  
 5 after the time of the occurrence of the accidental personal injury or the date of  
 6 disablement from the occupational disease; or

7 (3) ~~the surviving spouse and the covered employee~~:

8 (i) ~~were married after the time of the occurrence of the~~  
 9 ~~accidental personal injury or the date of disablement from the occupational disease~~;  
 10 and

11 (ii) do not have any dependent children~~.~~

12 ~~(4)~~ (C) (1) Except as provided in paragraph (2) of this subsection, an  
 13 individual is not entitled to compensation due to the death of a covered employee from  
 14 an occupational disease if the individual became dependent on the covered employee  
 15 after the beginning of the 1st compensable disability of the covered employee resulting  
 16 from the occupational disease.

17 (2) The prohibition against compensation in paragraph (1) of this  
 18 subsection does not apply to a child of the deceased covered employee born:

19 (i) after the beginning of the 1st compensable disability of the  
 20 covered employee resulting from the occupational disease; and

21 (ii) of a marriage that existed at the beginning of the disability.~~.~~

22 9-681.

23 (a) **THIS SECTION APPLIES ONLY TO A COVERED EMPLOYEE OF A**  
 24 **MUNICIPAL CORPORATION OR A COUNTY WHO IS SUBJECT TO § 9-503 OF THIS**  
 25 **TITLE AND THE DEPENDENTS OF THOSE COVERED EMPLOYEES, UNLESS THE**  
 26 **MUNICIPAL CORPORATION OR COUNTY HAS MADE AN ELECTION UNDER §**  
 27 **9-683.6 OF THIS SUBTITLE.**

28 (B) If there are individuals who were ~~wholly~~ dependent on a deceased  
 29 covered employee at the time of death resulting from an accidental personal injury or  
 30 occupational disease, the employer or its insurer shall pay death benefits in  
 31 accordance with this section.

1       ~~(C)~~ **(C)**       (1)     Except as provided in paragraph (2) of this subsection, the  
2 death benefit payable under this section shall equal two-thirds of the average weekly  
3 wage of the deceased covered employee, but may not:

4                   (i)     exceed the State average weekly wage; or

5                   (ii)    be less than \$25.

6                   (2)     If the average weekly wage of the deceased covered employee was  
7 less than \$25 at the time of the accidental personal injury or the last injurious  
8 exposure to the hazards of the occupational disease, the weekly death benefit payable  
9 under this section shall equal the average weekly wage of the deceased covered  
10 employee.

11       ~~(D)~~ **(D)**       Except as otherwise provided in this section, the employer or its  
12 insurer shall pay the weekly death benefit:

13                   (1)     for the period of total dependency; or

14                   (2)     until \$45,000 has been paid.

15       ~~(E)~~ **(E)**       If a surviving spouse who was wholly dependent at the time of  
16 death continues to be wholly dependent after \$45,000 has been paid, the employer or  
17 its insurer shall continue to make payments to the surviving spouse at the same  
18 weekly rate during the total dependency of the surviving spouse.

19       ~~(F)~~ **(F)**       (1)     If a surviving spouse who is wholly dependent at the time of  
20 death becomes wholly self-supporting before \$45,000 has been paid, the employer or  
21 its insurer shall continue to pay death benefits until \$45,000 has been paid.

22                   (2)     If a surviving spouse who is wholly dependent at the time of death  
23 becomes partly self-supporting, the employer or its insurer shall continue to make  
24 payments to the surviving spouse in accordance with § 9-682 of this subtitle.

25       ~~(G)~~ **(G)** (1)     Except as provided in paragraph (2) of this subsection, if a  
26 surviving spouse who is wholly dependent remarries, payment to the surviving spouse  
27 shall stop on the date of remarriage, even if \$45,000 has not been paid.

28                   (2)     If a surviving spouse who is wholly dependent remarries and does  
29 not have dependent children at the time of the remarriage, the employer or its insurer  
30 shall continue to make payments to the surviving spouse for 2 years after the date of  
31 the remarriage.

32       ~~(H)~~ **(H)**       If a surviving child continues to be wholly dependent after the total  
33 amount of \$45,000 has been paid, the employer or its insurer shall continue to make  
34 payments at the same weekly rate during the total dependency of the surviving child.

1       ~~(I)~~ **(I)**       Except as provided in subsection ~~(I)~~ **(J)** of this section, if a child  
 2 who is wholly dependent at the time of death becomes wholly or partly  
 3 self-supporting, the employer or its insurer shall continue to pay death benefits until  
 4 \$45,000 has been paid.

5       ~~(J)~~ **(J)** (1)    Except as provided in paragraphs (2) and (3) of this subsection, the  
 6 employer or its insurer shall continue to make payments to, or for the benefit of, a  
 7 surviving child until the child reaches 18 years of age.

8                   (2)    The employer or its insurer shall continue to make payments to, or  
 9 for the benefit of, a child who is 18 years old or older for the period of dependency if  
 10 the child is:

11                           (i)   wholly dependent on the deceased covered employee; and

12                           (ii)   incapable of self-support because of mental or physical  
 13 disability or other sufficient reason as determined by the Commission.

14                   (3)    The employer or its insurer shall continue to make payments to, or  
 15 for the benefit of, a child who is 18 years old or older for up to 5 years after reaching  
 16 the age of 18 if:

17                           (i)   the child is attending school on a full-time basis; and

18                           (ii)   the school offers an educational program or a vocational  
 19 training program, that is accredited or approved by the State Department of  
 20 Education.

21       ~~(K)~~ **(K)**       The Commission has continuing jurisdiction to:

22                   (1)    determine whether a surviving spouse or child has become wholly  
 23 or partly self-supporting;

24                   (2)    suspend or terminate payments of compensation; and

25                   (3)    reinstate payments of compensation that have been suspended or  
 26 terminated.†

27    9-682.

28                   **(A) THIS SECTION APPLIES ONLY TO A COVERED EMPLOYEE OF A**  
 29 **MUNICIPAL CORPORATION OR A COUNTY WHO IS SUBJECT TO § 9-503 OF THIS**  
 30 **TITLE AND THE DEPENDENTS OF THOSE COVERED EMPLOYEES, UNLESS THE**  
 31 **MUNICIPAL CORPORATION OR COUNTY HAS MADE AN ELECTION UNDER §**  
 32 **9-683.6 OF THIS SUBTITLE.**

1           [(a)](B)    The employer or its insurer shall pay a death benefit in accordance  
2 with this section if:

3                   (1) there are no individuals who were wholly dependent on the  
4 deceased covered employee at the time of death, but there are individuals who were  
5 partly dependent; or

6                   (2) a surviving spouse who was wholly dependent on the deceased  
7 covered employee at the time of death becomes partly self-supporting.

8           [(b)] (C)   (1)   The maximum weekly death benefit payable under this  
9 section shall equal two-thirds of the average weekly wage of the deceased covered  
10 employee, but may not exceed two-thirds of the State average weekly wage.

11                   (2) The weekly death benefit payable under this section shall be the  
12 percentage of the maximum weekly death benefit under paragraph (1) of this  
13 subsection that:

14                           (i) the weekly earnings of the deceased covered employee bears  
15 to the combined weekly earnings of the deceased covered employee and the partly  
16 dependent individuals; and

17                           (ii) does not exceed the maximum weekly death benefit.

18           [(c)] (D)    Except as otherwise provided in this section, the employer or its  
19 insurer shall pay the weekly death benefit:

20                   (1) for the period of partial dependency; or

21                   (2) until \$75,000 has been paid, including any payments made during  
22 a period of total dependency under § 9-681 of this subtitle.

23           [(d)] (E)   (1)   Subject to paragraph (2) of this subsection, if a surviving  
24 spouse who is partly dependent remarries and does not have dependent children at the  
25 time of the remarriage, the employer or its insurer shall make payments to the  
26 surviving spouse for 2 years after the date of the remarriage.

27                   (2) The total of the payments made before the remarriage may not  
28 exceed \$75,000.

29           [(e)] (F)   (1)   Except as provided in paragraphs (2) and (3) of this  
30 subsection, the employer or its insurer shall continue to make payments to, or for the  
31 benefit of, a surviving child until the child reaches 18 years of age.

1           (2) If a child who is 18 years old or older remains partly dependent on  
 2 the deceased covered employee, the employer or its insurer shall continue to make  
 3 payments in accordance with subsections [(b) and] (c) AND (D) of this section.

4           (3) The employer or its insurer shall continue to make payments to, or  
 5 for the benefit of, a child who is 18 years old or older for up to 5 years after reaching  
 6 the age of 18 if:

7                   (i) the child is attending school on a full-time basis; and

8                   (ii) the school offers an educational program or a vocational  
 9 training program and the program is accredited or approved by the Maryland State  
 10 Department of Education.

11 9-683.

12           (A) THIS SECTION APPLIES ONLY TO A COVERED EMPLOYEE OF A  
 13 MUNICIPAL CORPORATION OR A COUNTY WHO IS SUBJECT TO § 9-503 OF THIS  
 14 TITLE AND THE DEPENDENTS OF THOSE COVERED EMPLOYEES, UNLESS THE  
 15 MUNICIPAL CORPORATION OR COUNTY HAS MADE AN ELECTION UNDER §  
 16 9-683.6 OF THIS SUBTITLE.

17           [(a)] (B) If there are multiple dependents entitled to death benefits, the  
 18 Commission may apportion an award of death benefits among the dependents in the  
 19 manner that the Commission considers just and equitable.

20           [(b)] (C) If there are wholly and partly dependent individuals entitled to  
 21 death benefits, the Commission may:

22                   (1) award the death benefits to the wholly dependent individuals only;  
 23 or

24                   (2) apportion the award among the wholly and partly dependent  
 25 individuals in the manner that the Commission considers to be fair and equitable  
 26 under all of the facts and circumstances of the case.

27           [(c)] (D) (1) Death benefits shall be paid to 1 or more of the dependents  
 28 of a covered employee who are entitled to death benefits, as determined by the  
 29 Commission, for the benefit of all of the dependents who are entitled to death benefits.

30                   (2) A dependent to whom death benefits are paid shall apply the death  
 31 benefits to the use of all of the dependents who are entitled to death benefits:

32                           (i) according to the respective claims of the dependents on the  
 33 deceased covered employee for support; and

1                   (ii) in compliance with the findings and direction of the  
2 Commission.

3 **9-683.1.**

4           **(A) THIS SECTION DOES NOT APPLY TO A COVERED EMPLOYEE OF A**  
5 **MUNICIPAL CORPORATION OR A COUNTY WHO IS SUBJECT TO § 9-503 OF THIS**  
6 **TITLE AND THE DEPENDENTS OF THOSE COVERED EMPLOYEES, UNLESS THE**  
7 **MUNICIPAL CORPORATION OR COUNTY HAS MADE AN ELECTION UNDER §**  
8 **9-683.6 OF THIS SUBTITLE.**

9           **(B) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE**  
10 **COMMISSION SHALL DETERMINE ALL QUESTIONS OF DEPENDENCY IN**  
11 **ACCORDANCE WITH THE FACTS OF EACH CASE THAT EXISTED:**

12                   **(1) AT THE TIME OF THE OCCURRENCE OF THE ACCIDENTAL**  
13 **PERSONAL INJURY THAT CAUSED THE DEATH OF THE COVERED EMPLOYEE; OR**

14                   **(2) ON THE DATE OF DISABLEMENT FROM THE OCCUPATIONAL**  
15 **DISEASE THAT CAUSED THE DEATH OF THE COVERED EMPLOYEE.**

16           **(C) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, THE**  
17 **COMMISSION MAY DETERMINE THE QUESTION OF DEPENDENCY OF A CHILD OF**  
18 **A COVERED EMPLOYEE BORN AFTER:**

19                   **(1) THE TIME OF THE OCCURRENCE OF THE ACCIDENTAL**  
20 **PERSONAL INJURY THAT CAUSED THE DEATH OF THE COVERED EMPLOYEE;**

21                   **(2) THE DATE OF DISABLEMENT FROM THE OCCUPATIONAL**  
22 **DISEASE THAT CAUSED THE DEATH OF THE COVERED EMPLOYEE; OR**

23                   **(3) THE DEATH OF THE COVERED EMPLOYEE RESULTING FROM**  
24 **THE ACCIDENTAL PERSONAL INJURY OR OCCUPATIONAL DISEASE.**

25 **9-683.2.**

26           **(A) THIS SECTION DOES NOT APPLY TO A COVERED EMPLOYEE OF A**  
27 **MUNICIPAL CORPORATION OR A COUNTY WHO IS SUBJECT TO § 9-503 OF THIS**  
28 **TITLE AND THE DEPENDENTS OF THOSE COVERED EMPLOYEES, UNLESS THE**  
29 **MUNICIPAL CORPORATION OR COUNTY HAS MADE AN ELECTION UNDER §**  
30 **9-683.6 OF THIS SUBTITLE.**

31           **(B) THE SURVIVING SPOUSE OF A DECEASED COVERED EMPLOYEE**  
32 **WHOSE DEATH WAS CAUSED BY AN ACCIDENTAL PERSONAL INJURY OR AN**

1 OCCUPATIONAL DISEASE IS NOT ENTITLED TO DEATH BENEFITS UNDER THIS  
2 TITLE IF THE SURVIVING SPOUSE AND THE COVERED EMPLOYEE WERE  
3 MARRIED AFTER THE TIME OF THE OCCURRENCE OF THE ACCIDENTAL  
4 PERSONAL INJURY OR THE DATE OF DISABLEMENT FROM THE OCCUPATIONAL  
5 DISEASE.

6 9-683.3.

7 (A) THIS SECTION DOES NOT APPLY TO A COVERED EMPLOYEE OF A  
8 MUNICIPAL CORPORATION OR A COUNTY WHO IS SUBJECT TO § 9-503 OF THIS  
9 TITLE AND THE DEPENDENTS OF THOSE COVERED EMPLOYEES, UNLESS THE  
10 MUNICIPAL CORPORATION OR COUNTY HAS MADE AN ELECTION UNDER §  
11 9-683.6 OF THIS SUBTITLE.

12 (B) IF THERE ARE INDIVIDUALS WHO WERE DEPENDENT ON A  
13 DECEASED COVERED EMPLOYEE AT THE TIME OF DEATH RESULTING FROM AN  
14 ACCIDENTAL PERSONAL INJURY OR OCCUPATIONAL DISEASE, THE EMPLOYER  
15 OR ITS INSURER SHALL PAY DEATH BENEFITS IN ACCORDANCE WITH THIS  
16 SECTION.

17 ~~(B)~~ (C) (1) BEGINNING ON THE DATE OF DEATH OF A DECEASED  
18 COVERED EMPLOYEE AND CONTINUING FOR A PERIOD OF 144 MONTHS, THE  
19 EMPLOYER OR ITS INSURER SHALL PAY DEATH BENEFITS, AS CALCULATED IN  
20 THIS SECTION, TO THE DEPENDENTS OF THE DECEASED COVERED EMPLOYEE.

21 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION,  
22 DEATH BENEFITS SHALL BE PAID AT THE RATE OF TWO-THIRDS OF THE  
23 DECEASED COVERED EMPLOYEE'S AVERAGE WEEKLY WAGE AT THE TIME OF  
24 THE OCCURRENCE OF THE ACCIDENTAL PERSONAL INJURY THAT CAUSED THE  
25 DEATH OF THE COVERED EMPLOYEE OR ON THE DATE OF DISABLEMENT FROM  
26 THE OCCUPATIONAL DISEASE THAT CAUSED THE DEATH OF THE COVERED  
27 EMPLOYEE, NOT TO EXCEED THE STATE AVERAGE WEEKLY WAGE.

28 (3) THE AVERAGE WEEKLY WAGE OF ALL DEPENDENTS AND THE  
29 DECEASED COVERED EMPLOYEE'S AVERAGE WEEKLY WAGE SHALL BE  
30 COMBINED TO DETERMINE THE FAMILY INCOME.

31 (4) THE DECEASED COVERED EMPLOYEE'S INCOME SHALL BE  
32 DIVIDED BY THE FAMILY INCOME TO DETERMINE THE PERCENT OF THE FAMILY  
33 INCOME EARNED BY THE DECEASED COVERED EMPLOYEE.

34 (5) THE PERCENT OF THE FAMILY INCOME EARNED BY THE  
35 DECEASED COVERED EMPLOYEE SHALL BE MULTIPLIED BY THE DEATH

1 BENEFIT, AS CALCULATED IN PARAGRAPH (2) OF THIS SUBSECTION, TO  
2 DETERMINE THE AMOUNT PAYABLE, COLLECTIVELY, TO ALL DEPENDENTS.

3 (6) IF THE AVERAGE WEEKLY WAGE OF THE DECEASED COVERED  
4 EMPLOYEE WAS LESS THAN \$100 AT THE TIME OF THE OCCURRENCE OF THE  
5 ACCIDENTAL PERSONAL INJURY THAT CAUSED THE DEATH OF THE COVERED  
6 EMPLOYEE OR ON THE DATE OF DISABLEMENT FROM THE OCCUPATIONAL  
7 DISEASE THAT CAUSED THE DEATH OF THE COVERED EMPLOYEE, THE WEEKLY  
8 DEATH BENEFIT PAID UNDER THIS SECTION SHALL EQUAL THE AVERAGE  
9 WEEKLY WAGE OF THE DECEASED COVERED EMPLOYEE UP TO \$100 PER WEEK.

10 ~~(C)~~ (D) (1) DEATH BENEFITS SHALL BE PAID FOR A MINIMUM OF 5  
11 YEARS AFTER THE COVERED EMPLOYEE'S DEATH.

12 (2) SUBJECT TO SUBSECTIONS ~~(D) THROUGH (H)~~ (E) THROUGH (I)  
13 OF THIS SECTION, PROVIDED THAT A MINIMUM OF 5 YEARS OF DEATH BENEFITS  
14 HAS BEEN PAID, DEATH BENEFITS SHALL TERMINATE ON THE DATE THAT  
15 WOULD HAVE BEEN THE DECEASED COVERED EMPLOYEE'S 70TH BIRTHDAY.

16 ~~(D)~~ (E) NOTWITHSTANDING THE TIME LIMITATIONS UNDER  
17 SUBSECTIONS ~~(B) AND (C)~~ (C) AND (D) OF THIS SECTION, IF A DEPENDENT  
18 SPOUSE OR DEPENDENT CHILD IS INCAPABLE OF SELF-SUPPORT BECAUSE OF A  
19 MENTAL OR PHYSICAL DISABILITY THAT PREEXISTED THE COVERED  
20 EMPLOYEE'S DEATH, DEATH BENEFITS SHALL CONTINUE FOR THE DURATION OF  
21 THE DEPENDENT'S DISABILITY.

22 ~~(E)~~ (F) IF A DEPENDENT SPOUSE REMARRIES, DEATH BENEFITS  
23 SHALL TERMINATE 2 YEARS AFTER THE DATE OF REMARRIAGE.

24 ~~(F)~~ (G) THE EMPLOYER OR ITS INSURER SHALL CONTINUE TO MAKE  
25 PAYMENTS TO OR FOR THE BENEFIT OF A DEPENDENT CHILD UNTIL THE CHILD  
26 REACHES 18 YEARS OF AGE.

27 ~~(G)~~ (H) THE EMPLOYER OR ITS INSURER SHALL CONTINUE TO MAKE  
28 PAYMENTS TO, OR FOR THE BENEFIT OF, A DEPENDENT CHILD FOR UP TO 5  
29 YEARS AFTER THE CHILD REACHES 18 YEARS OF AGE IF:

30 (1) THE CHILD IS ATTENDING SCHOOL ON A FULL-TIME BASIS;  
31 AND

32 (2) THE SCHOOL OFFERS AN EDUCATIONAL PROGRAM OR A  
33 VOCATIONAL TRAINING PROGRAM THAT IS ACCREDITED OR APPROVED BY THE  
34 STATE DEPARTMENT OF EDUCATION.

1       ~~(H)~~ (1)       (1)       EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
2       SUBSECTION, ALL DEPENDENTS WHO ARE NEITHER A DEPENDENT SPOUSE NOR  
3       A DEPENDENT CHILD SHALL BE ENTITLED TO NO MORE THAN A TOTAL OF  
4       \$65,000, COLLECTIVELY, AS THEIR PORTION OF THE TOTAL DEATH BENEFITS  
5       PAYABLE IN ACCORDANCE WITH SUBSECTION ~~(B)~~ (C) OF THIS SECTION.

6       (2)       BEGINNING ON JANUARY 1, 2012, THE BENEFIT LIMIT UNDER  
7       PARAGRAPH (1) OF THIS SUBSECTION SHALL BE ADJUSTED ANNUALLY BY THE  
8       SAME PERCENT APPLICABLE TO THE ADJUSTMENT OF THE STATE AVERAGE  
9       WEEKLY WAGE.

10       9-683.4.

11       (A)       THIS SECTION DOES NOT APPLY TO A COVERED EMPLOYEE OF A  
12       MUNICIPAL CORPORATION OR A COUNTY WHO IS SUBJECT TO § 9-503 OF THIS  
13       TITLE AND THE DEPENDENTS OF THOSE COVERED EMPLOYEES, UNLESS THE  
14       MUNICIPAL CORPORATION OR COUNTY HAS MADE AN ELECTION UNDER §  
15       9-683.6 OF THIS SUBTITLE.

16       (B)       THE COMMISSION HAS CONTINUING JURISDICTION TO:

17       (1)       SUSPEND, REALLOCATE, OR TERMINATE PAYMENTS OF  
18       COMPENSATION IN ACCORDANCE WITH THIS PART; AND

19       (2)       REINSTATE PAYMENTS OF COMPENSATION THAT HAVE BEEN  
20       SUSPENDED OR TERMINATED UNDER THIS SECTION.

21       9-683.5.

22       (A)       THIS SECTION DOES NOT APPLY TO A COVERED EMPLOYEE OF A  
23       MUNICIPAL CORPORATION OR A COUNTY WHO IS SUBJECT TO § 9-503 OF THIS  
24       TITLE AND THE DEPENDENTS OF THOSE COVERED EMPLOYEES, UNLESS THE  
25       MUNICIPAL CORPORATION OR COUNTY HAS MADE AN ELECTION UNDER §  
26       9-683.6 OF THIS SUBTITLE.

27       (B)       IF THERE ARE MULTIPLE DEPENDENTS ENTITLED TO DEATH  
28       BENEFITS, THE COMMISSION MAY APPORTION AN AWARD OF DEATH BENEFITS  
29       AMONG THE DEPENDENTS IN THE MANNER THAT THE COMMISSION CONSIDERS  
30       JUST AND EQUITABLE.

31       (C)       (1)       DEATH BENEFITS SHALL BE PAID TO 1 OR MORE OF THE  
32       DEPENDENTS OF A COVERED EMPLOYEE WHO ARE ENTITLED TO DEATH  
33       BENEFITS, AS DETERMINED BY THE COMMISSION, FOR THE BENEFIT OF ALL OF  
34       THE DEPENDENTS WHO ARE ENTITLED TO DEATH BENEFITS.

1           **(2) A DEPENDENT TO WHOM DEATH BENEFITS ARE PAID SHALL**  
2 **APPLY THE DEATH BENEFITS TO THE USE OF ALL OF THE DEPENDENTS WHO**  
3 **ARE ENTITLED TO DEATH BENEFITS:**

4                   **(I) ACCORDING TO THE RESPECTIVE CLAIMS OF THE**  
5 **DEPENDENTS OF THE DECEASED COVERED EMPLOYEE FOR SUPPORT; AND**

6                   **(II) IN COMPLIANCE WITH THE FINDINGS AND DIRECTION**  
7 **OF THE COMMISSION.**

8 **9-683.6.**

9           **(A) A MUNICIPAL CORPORATION OR COUNTY MAY MAKE A ONE-TIME**  
10 **ELECTION TO MAKE THEIR COVERED EMPLOYEES WHO ARE SUBJECT TO § 9-503**  
11 **OF THIS TITLE AND THEIR DEPENDENTS SUBJECT TO §§ 9-683.1 THROUGH**  
12 **9-683.5 OF THIS SUBTITLE.**

13           **(B) TO MAKE THE ELECTION DESCRIBED UNDER SUBSECTION (A) OF**  
14 **THIS SECTION, THE GOVERNING BODY OF THE MUNICIPAL CORPORATION OR**  
15 **COUNTY SHALL:**

16                   **(1) ADOPT AN ORDINANCE OR RESOLUTION STATING THAT IT IS**  
17 **THE INTENT OF THE GOVERNING BODY TO EXERCISE THE RIGHT OF ELECTION;**  
18 **AND**

19                   **(2) FORWARD A COPY OF THE ORDINANCE OR RESOLUTION TO**  
20 **THE COMMISSION.**

21           **(C) ON RECEIPT OF A COPY OF THE RESOLUTION, THE COMMISSION**  
22 **SHALL ACKNOWLEDGE RECEIPT OF THE ORDINANCE OR RESOLUTION TO THE**  
23 **MUNICIPAL CORPORATION OR COUNTY.**

24           **(D) ONCE THE COMMISSION HAS ACKNOWLEDGED RECEIPT OF THE**  
25 **ORDINANCE OR RESOLUTION, ANY WORKERS' COMPENSATION CASE ARISING ON**  
26 **OR AFTER THE DATE OF ACKNOWLEDGEMENT AND INVOLVING A COVERED**  
27 **EMPLOYEE OF THE MUNICIPAL CORPORATION OR COUNTY WHO IS SUBJECT TO §**  
28 **9-503 OF THIS TITLE AND THE DEPENDENTS OF THE COVERED EMPLOYEE**  
29 **SHALL BE SUBJECT TO §§ 9-683.1 THROUGH 9-683.5 OF THIS SUBTITLE.**

30 ~~**9-682.**~~

31           ~~**(a) The employer or its insurer shall pay a death benefit in accordance with**~~  
32 ~~**this section if:**~~

1 ~~(1) there are no individuals who were wholly dependent on the~~  
2 ~~deceased covered employee at the time of death, but there are individuals who were~~  
3 ~~partly dependent; or~~

4 ~~(2) a surviving spouse who was wholly dependent on the deceased~~  
5 ~~covered employee at the time of death becomes partly self-supporting.~~

6 ~~(b) (1) The maximum weekly death benefit payable under this section~~  
7 ~~shall equal two thirds of the average weekly wage of the deceased covered employee,~~  
8 ~~but may not exceed two thirds of the State average weekly wage.~~

9 ~~(2) The weekly death benefit payable under this section shall be the~~  
10 ~~percentage of the maximum weekly death benefit under paragraph (1) of this~~  
11 ~~subsection that:~~

12 ~~(i) the weekly earnings of the deceased covered employee bears~~  
13 ~~to the combined weekly earnings of the deceased covered employee and the partly~~  
14 ~~dependent individuals; and~~

15 ~~(ii) does not exceed the maximum weekly death benefit.~~

16 ~~(e) Except as otherwise provided in this section, the employer or its insurer~~  
17 ~~shall pay the weekly death benefit:~~

18 ~~(1) for the period of partial dependency; or~~

19 ~~(2) until \$75,000 has been paid, including any payments made during~~  
20 ~~a period of total dependency under § 9-681 of this subtitle.~~

21 ~~(d) (1) Subject to paragraph (2) of this subsection, if a surviving spouse~~  
22 ~~who is partly dependent remarries and does not have dependent children at the time~~  
23 ~~of the remarriage, the employer or its insurer shall make payments to the surviving~~  
24 ~~spouse for 2 years after the date of the remarriage.~~

25 ~~(2) The total of the payments made before the remarriage may not~~  
26 ~~exceed \$75,000.~~

27 ~~(e) (1) Except as provided in paragraphs (2) and (3) of this subsection, the~~  
28 ~~employer or its insurer shall continue to make payments to, or for the benefit of, a~~  
29 ~~surviving child until the child reaches 18 years of age.~~

30 ~~(2) If a child who is 18 years old or older remains partly dependent on~~  
31 ~~the deceased covered employee, the employer or its insurer shall continue to make~~  
32 ~~payments in accordance with subsections (b) and (e) of this section.~~

1           ~~(3) The employer or its insurer shall continue to make payments to, or~~  
 2 ~~for the benefit of, a child who is 18 years old or older for up to 5 years after reaching~~  
 3 ~~the age of 18 if:~~

4           ~~(i) the child is attending school on a full-time basis; and~~

5           ~~(ii) the school offers an educational program or a vocational~~  
 6 ~~training program and the program is accredited or approved by the Maryland State~~  
 7 ~~Department of Education.]~~

8 ~~9-682.~~

9           ~~THE COMMISSION HAS CONTINUING JURISDICTION TO:~~

10           ~~(1) SUSPEND, REALLOCATE, OR TERMINATE PAYMENTS OF~~  
 11 ~~COMPENSATION IN ACCORDANCE WITH THIS PART; AND~~

12           ~~(2) REINSTATE PAYMENTS OF COMPENSATION THAT HAVE BEEN~~  
 13 ~~SUSPENDED OR TERMINATED UNDER THIS SECTION.~~

14 ~~9-683.~~

15           ~~(a) If there are multiple dependents entitled to death benefits, the~~  
 16 ~~Commission may apportion an award of death benefits among the dependents in the~~  
 17 ~~manner that the Commission considers just and equitable.~~

18           ~~[(b) If there are wholly and partly dependent individuals entitled to death~~  
 19 ~~benefits, the Commission may:~~

20           ~~(1) award the death benefits to the wholly dependent individuals only;~~  
 21 ~~or~~

22           ~~(2) apportion the award among the wholly and partly dependent~~  
 23 ~~individuals in the manner that the Commission considers to be fair and equitable~~  
 24 ~~under all of the facts and circumstances of the case.]~~

25           ~~[(c)] (B) (1) Death benefits shall be paid to 1 or more of the dependents~~  
 26 ~~of a covered employee who are entitled to death benefits, as determined by the~~  
 27 ~~Commission, for the benefit of all of the dependents who are entitled to death benefits.~~

28           ~~(2) A dependent to whom death benefits are paid shall apply the death~~  
 29 ~~benefits to the use of all of the dependents who are entitled to death benefits:~~

30           ~~(i) according to the respective claims of the dependents on the~~  
 31 ~~deceased covered employee for support; and~~

1 ~~(ii) in compliance with the findings and direction of the~~  
 2 ~~Commission.~~

3 9-689.

4 (a) The employer or its insurer shall pay reasonable funeral expenses of a  
 5 deceased covered employee, not exceeding ~~[\$5,000]~~ **\$7,000**, if the covered employee  
 6 died as a result of:

7 (1) an accidental personal injury, within 7 years of the accidental  
 8 personal injury; or

9 (2) an occupational disease.

10 (b) Unless approved by the Commission, a bill for funeral expenses of more  
 11 than ~~[\$5,000]~~ **\$7,000** is void and uncollectable out of:

12 (1) workers' compensation benefits payable with respect to the  
 13 deceased covered employee; or

14 (2) personal assets of any person to whom workers' compensation  
 15 benefits are payable with respect to the deceased covered employee.

16 (c) If there are no dependents, the employer~~[,] OR~~ its insurer~~[,] or~~ the Injured  
 17 Workers' Insurance Fund, as appropriate,~~] shall~~ pay the expenses of the last sickness  
 18 and ~~[burial]~~ **FUNERAL EXPENSES** of the covered employee.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
 20 construed to apply only prospectively to deaths occurring on or after the effective date  
 21 of this Act and may not be applied or interpreted to have any effect on or application to  
 22 any death occurring before the effective date of this Act.

23 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 24 October 1, 2011.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.